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5 Counsel to Independent
Monitor Michael A. Maidy
6

7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9

10 SECURITIES AND EXCHANGE
COMMISSION,

11 Plaintiff,

12 v.

13 JOHN B. BIVONA; SADDLE RIVER
14 ADVISERS, LLC; SRA
MANAGEMENT ASSOCIATES, LLC;
15 FRANK GREGORY MAZZOLA

16 Defendants.
17

Case No. 3:16-cv-1386

18 **MONITOR'S**
19 **MISCELLANEOUS**
ADMINISTRATIVE
APPLICATION FOR AN
ORDER PURSUANT TO
LOCAL RULE 7-11 TO PAY
FINAL FEES FOR THE
PERIOD JUNE TO
OCTOBER 2016

Date: No date
Time: No time
Judge: Edward M. Chen

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21 **I. INTRODUCTION**

22 The Independent Monitor in the above matter, Michael A. Maidy (“the
23 Monitor”) pursuant to this Court’s TRO of March 25, 2016 (Dkt. No. 36, “The
24 Order”), was charged certain tasks and responsibilities in acting as the Monitor,
25 and for performing those tasks and responsibilities was to be paid for his
26 services by the Defendants in this matter.

27 As the Declarations of the Monitor, and his Special Counsel attest, both
28 were careful to adhere to this Court’s admonition that each be “as economical

as is reasonably possible in performing their duties, to minimize the costs and expenses incurred.”

II. NATURE OF WORK PERFORMED

During the months of June to October 2016, the work of the Monitor chiefly consisted of the continuing investigation of the defendants’ business activities, the drafting of the third interim report to the Court, which was presented in early July, numerous administrative tasks related to the distributions of Flurry and Square stock, and the pre-Receivership work of the monitor with the Plaintiff SEC and defendants’ counsel concerning the ability to convert to a receivership.

During this final five month billing period¹, the Independent Monitor and the professional staff working for him billed 167.5 hours related chiefly to the matters set forth above, with requisite fees totaling \$68,773.00. To manage costs, the Independent Monitor himself used lower priced staff where possible and personally billed only 8 hours.

The Monitor’s Special Counsel (“Counsel”) performed only those services requested by the Monitor, which chiefly consisted of the review, preparation and filing of the third interim report, and attendance in numerous telephone conferences with the Monitor, Plaintiff SEC and defendants’ counsel concerning the viability of appointing a Receiver. During the present billing period, Counsel spent a total of 16 hours at a 10% reduced billing rate of \$450 per hour. Counsel also had expenses of \$503. Therefore the total billing for the months of June to October 2016 was \$7,703 for the Monitor’s Counsel.

III. REVIEW OF MONITOR’S BILLS BY THE PARTIE

The Monitor provided his and his counsel’s billing invoices for services for the

¹ On October 11, 2016 this Court converted the Monitor to a Receiver. Going forward, all fee applications for work after October 11, 2016, will be presented as those from Sherwood Partners Inc., acting as Receiver.

1 months of June to October 2016 to counsel the parties to the underlying
2 litigation. As the declaration of Cotton accompanying this Application reflects,
3 the U.S. Securities & Exchange Commission has stated it has no objection to
4 the final June to October 2016 fee applications of the Monitor and Counsel,
5 and the defendants' counsel has stated that the defendants approved the June to
6 October 2016 invoices for payment.

7 In keeping with the parties' response, Counsel to the Monitor has
8 prepared a stipulated order accompanying this Application, which the parties
9 have approved.

10 **IV. CONCLUSION**

11 The Monitor has made every effort to perform his and his staff's services
12 at the most efficient and reasonable rates, and with an eye toward economy. He
13 respectfully requests that this Court approve his and his Counsel's bills for the
14 month of June to October 2016. Therefore, for the reasons set forth above, and
15 in the accompanying declarations of Michael A. Maidy and John Cotton, the
16 Independent Monitor, Michael A. Maidy, respectfully requests the Court to
17 approve and sign the stipulated Order accompanying this Application

18 Dated: December 1, 2016

GARTENBERG GELFAND HAYTON
19 LLP

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21 By: /s/ John W. Cotton
22 John W. Cotton
23 Special Counsel to the Monitor
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